

FILED
U.S. DISTRICT COURT E.D.N.Y.
MAR 20 2008
BROOKLYN OFFICE
Case No.:
VERIFIED COMPLAINT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LUZ RODRIGUEZ,

Plaintiff,

-against-

TRUMP PLAZA HOTEL and
TRUMP PROPERTIES,

Defendant(s).

CV 08

1149

**AMON J.
MATSUMOTO, M.J.**

Plaintiff by her attorneys, ORNSTEIN & ORNSTEIN, P.C., complaining of the Defendants, respectfully alleges, upon information and belief:

1. That this Court has jurisdiction over this matter since the plaintiff is a resident of the State of New York and the defendants are New Jersey corporations, with resulting diversity of citizenship. The matter in controversy exceeds, exclusive of interest, the amount of \$75,000.00.
2. That at all times hereinafter mentioned, the defendant TRUMP PLAZA HOTEL, was a foreign corporation duly authorized to conduct its business in the State of New York.
3. That at all times hereinafter mentioned, the defendant TRUMP PROPERTIES, was a foreign corporation duly authorized to conduct its business in the State of New York.
4. That at all times hereinafter mentioned, the defendant, TRUMP PLAZA HOTEL, was a non-domiciliary of the State of New York, and has transacted business within the State of New York.
5. That at all times hereinafter mentioned, the defendant, TRUMP PROPERTIES, was a non-domiciliary of the State of New York, and has transacted business within the State of New York.
6. That at all times hereinafter mentioned, the defendant, TRUMP PLAZA HOTEL, was a non-domiciliary of the State of New York and has committed a tortious act without the State of New York, causing injury to a person within the State of New York and said defendant

solicited business or engaged in any other persistent course of conduct, or derived a substantial revenue from goods used or services rendered in the State of New York.

7. That at all times hereinafter mentioned, the defendant, TRUMP PROPERTIES, was a non-domiciliary of the State of New York and has committed a tortious act without the State of New York, causing injury to a person within the State of New York and said defendant solicited business or engaged in any other persistent course of conduct, or derived a substantial revenue from goods used or services rendered in the State of New York.

8. That at all times herein mentioned, the Plaintiff, LUZ RODRIGUEZ, was, and still is a resident of the County of Queens, State of New York.

9. That at all times herein mentioned, the Defendant, TRUMP PLAZA HOTEL owned the premises and appurtenances and fixtures thereto, located at, The Boardwalk at Mississippi Avenue, Atlantic City, New Jersey 08401.

10. That at all times herein mentioned, the Defendant, TRUMP PROPERTIES owned the premises and appurtenances and fixtures thereto, located at, The Boardwalk at Mississippi Avenue, Atlantic City, New Jersey 08401.

11. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PLAZA HOTEL managed the aforesaid premises.

12. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PROPERTIES managed the aforesaid premises.

13. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PLAZA HOTEL, maintained the aforesaid premises.

14. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PROPERTIES, maintained the aforesaid premises.

15. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PLAZA HOTEL, purchased bedding for the aforesaid premises.

16. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PROPERTIES, purchased bedding for the aforesaid premises.

17. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PLAZA HOTEL, owned bedding at the aforementioned premises.

18. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PROPERTIES, owned bedding at the aforementioned premises.

19. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PLAZA HOTEL, provided maid service for the aforesaid premises.

20. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PROPERTIES, provided maid service for the aforesaid premises.

21. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PLAZA HOTEL, inspected the aforesaid premises.

22. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PROPERTIES, inspected the aforesaid premises.

23. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PLAZA HOTEL, controlled the aforesaid premises.

24. That at all times herein mentioned, and upon information and belief, the Defendant, TRUMP PROPERTIES, controlled the aforesaid premises.

25. On January 5, 2007 Plaintiff LUZ RODRIGUEZ was lawfully on the aforesaid premises.

26. On January 5, 2007, while Plaintiff, LUZ RODRIGUEZ, was invited by Defendants, to the aforesaid premises.

27. On January 5, 2007, while Plaintiff, LUZ RODRIGUEZ, was lawfully inside the aforesaid premises with the knowledge, permission and consent of the owner or owners, and said permission and consent being either expresses or implied.

28. That on January 5, 2007 and January 6, 2007, Plaintiff, LUZ RODRIGUEZ, was caused to be bitten by bugs, mites or other insects which had prior to the date, infested the mattress, blanket and/or pillow she had been using those nights.

29. That at all times herein mentioned, Defendant, TRUMP PLAZA HOTEL, represented to the public in general, and to plaintiff, Luz Rodriguez in particular that its premises in general and the bed in particular, were safe and implied that same would be free from bed bugs, mites and other pests.

30. That at all times herein mentioned, Defendant, TRUMP PROPERTIES, represented to the public in general, and to plaintiff, Luz Rodriguez in particular that its premises in general and the bed in particular, were safe and implied that same would be free from bed bugs, mites and other pests.

31. That at all times herein mentioned the beds in general and the bed that plaintiff, Luz Rodriguez slept in were not free from bed bugs, mites and other pests which Defendant, TRUMP PLAZA HOTEL, knew or should have known would cause injury, cause pain, discomfort, irritation and apprehension.

32. That at all times herein mentioned the beds in general and the bed that plaintiff, Luz Rodriguez slept in were not free from bed bugs, mites and other pests which Defendant, TRUMP PROPERTIES, knew or should have known would cause injury, cause pain, discomfort, irritation and apprehension.

33. That TRUMP PLAZA HOTEL represented, advertised its facilities and accommodations are of a certain quality which is safe and sanitary and comfortable for its guests.

34. That TRUMP PROPERTIES represented, advertised its facilities and accommodations are of a certain quality which is safe and sanitary and comfortable for its guests.

35. The above mentioned occurrence, and the results thereof, were caused by the negligence of the Defendant and/or said Defendant's agents, servants, employees and/or licensees in the ownership, operation, management, supervision, maintenance and control of the aforesaid

premises and more particularly, in the maintenance and control of the area where plaintiff was caused to be injured, in allowing, causing and permitting the said location to become and to remain in an unsafe, defective, dangerous, and hazardous condition, in failing to repair and remedy the said dangerous and unsafe condition after it had been in existence for a period of time long enough to permit its observation and repair, in causing a hazard, unsafe nuisance, menace and trap-like condition to be present at said location for an unreasonably long period of time, in carelessly and negligently maintaining said area, in failing to give any signs or warnings of said condition at said location, in failing to supply any guards or barriers to prevent injury to persons lawfully using the hotel room and hotel room area, in failing to inspect the said dangerous condition in a timely fashion and in failing to comply with the statutes, ordinances, and municipal regulations made and provided for the maintenance of the premises herein.

36. That no negligence on the part of the Plaintiff contributed to the occurrence alleged herein in any manner whatsoever.

37. That by reason of the foregoing, Plaintiff, LUZ RODRIGUEZ, was caused to sustain serious injuries and to have suffered pain, shock and mental anguish; that these injuries and their effects will be permanent; and as a result of said injuries, Plaintiff has been caused to incur, and will continue to incur, expenses for medical care and attention; and, as a further result, Plaintiff was, and will continue to be, rendered unable to perform Plaintiff's normal activities and duties and has sustained a resultant loss therefrom.

38. That this action falls within one or more of the exceptions set forth in CPLR §1602.

39. That Plaintiff, Luz Rodriguez, alleges application of *res ipsa loquitur*.


40. That as a result of the foregoing, Plaintiff was damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

41. Plaintiff, Luz Rodriguez, hereby demands a trial by jury.

WHEREFORE, Plaintiff demands judgment against the Defendants herein, in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: Brooklyn, New York
March 11, 2008

Yours, etc.



DAVID FREEMAN
ORNSTEIN & ORNSTEIN, P.C.
Attorneys for Plaintiff
LUZ RODRIGUEZ
496 Clarkson Avenue
Brooklyn, New York 11203
(718) 778-5456
Our File No. 07-0095

PLAINTIFF'S VERIFICATION

STATE OF NEW YORK

ss:

COUNTY OF QUEENS

LUZ RODRIGUEZ, being duly sworn, says:

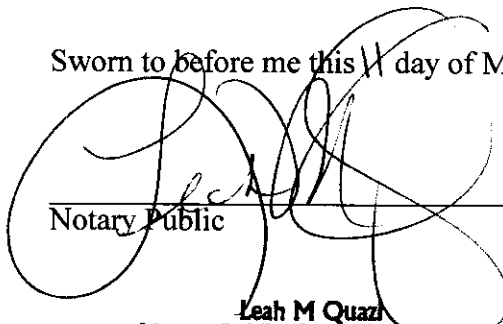
I am a Plaintiff in the action herein: I have read the annexed **COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my personal files.

DATED: Brooklyn, New York
March 11, 2008



LUZ RODRIGUEZ

Sworn to before me this 11 day of March, 2008



Notary Public
Leah M Quazi
Notary Public, State of New York
No: 01QU6163608
Qualified in Queens County
Commission Expires March 26, 2011